

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JAMES W. WHITE,**

**Petitioner,**

**v.**

**UNITED STATES OF AMERICA,**

**Respondent.**

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**Crim. No. 2:00-CR-50(3)**

**Civil No. 2:03-CV-842**

**JUDGE ALGENON L. MARBLEY**

**MAGISTRATE JUDGE KING**

**ORDER**

This matter is before the Court on Petitioner White's Motion for Summary Judgment and Entry of Default Judgment Due to the Government's Failure to Respond (Dkt. 225). Mr. Whites alleges that due to the Government's failure to respond to his 60(B)(3) Motion filed on April 27, 2009, he is entitled to a default judgment. On June 3, 2009, however, Magistrate Judge King's issued a Report and Recommendation to construe the 60(B)(3) Motion as a successive § 2255 habeas petition and transfer it to the Sixth Circuit Court of Appeals (Dkt. 214). On September 14, 2009, this Court issued an Opinion and Order adopting Judge King's Report and Recommendation (Dkt. 221). As a result, Mr. White's 60(B)(3) Motion was terminated on September 14, 2009. Furthermore, because the 60(B)(3) Motion, construed as a successive § 2255 habeas petition, is now before the Sixth Circuit Court of Appeals, this Court no longer has jurisdiction over the matter. Accordingly, Petitioner's Motion for Summary Judgment is **MOOT**.

**IT IS SO ORDERED.**

s/Algenon L. Marbley  
**ALGENON L. MARBLEY**  
**UNITED STATES DISTRICT COURT**

**Dated: November 19, 2009**